



LAO PEOPLE'S DEMOCRATIC REPUBLIC

Peace, Independence, Democracy, Unity, Prosperity

Ministry of Foreign Affairs

N. 355/AE.TD

The Ministry of Foreign Affairs of the Lao People's Democratic Republic presents its compliments to the Embassy of the United States of America and has the honour to refer to the note dated August 7, 1997, of the United States' Department of State proposing to amend and extend the agreement between the Government of the Lao People's Democratic Republic and the Government of the United States of America relating to trade in cotton, wool, man-made fiber, non-cotton vegetable fiber and silk blend textiles and textile products signed at Washington on September 15, 1994, as amended and extended by exchange of notes in Vientiane on November 9 and December 26, 1995 ("The Agreement"), as well as the Embassy's note N. 940 dated December 23, 1997, advising of the United States' response to the Lao Government's counterproposal and suggested changes to the Agreement.

The Ministry has the further honour to inform the Embassy that the Government of the Lao People's Democratic Republic agrees to amend and extend the Agreement for three years, as follows:

Agreement Relating to Trade in Cotton, Wool, Man-made Fiber, Non-Cotton Vegetable Fiber and Silk Blend Textiles and Textile Products Between the Government of the Lao People's Democratic Republic and the Government of the United States of America

Agreement Term

1. This Agreement is an extension of the Agreement ending December 31, 1997. The term of this Agreement will be the period from January 1, 1998, through December 31, 2000. Each "Agreement Period" or "Agreement Year" shall be a twelvemonth period from January 1 of a given year to December 31 of the same year.

Coverage of Agreement and Classification by Fiber

2. The textiles and textile products covered by this Agreement are those summarized in Annex A. The system of categories and the rates of conversion into square meters equivalent (SME) listed in Annex A shall apply in implementing this Agreement.

3. (A) Tops, yarns, piece goods, made-up articles, garments, and other textile manufactured products (being products which derive their chief characteristics from their textile components) of cotton, wool, man-made fibers, silk blends, non-cotton vegetable fibers, or blends thereof, in which any or all of these fibers in combination represent the chief weight of the product, are subject to this Agreement. Components of an article which are not considered relevant to the classification under the General Rules of Interpretation or the Legal Notes to Section 11 of the Harmonized System are likewise to be disregarded here.

(B) For the purposes of this Agreement, textile products covered by paragraph (2) above shall be classified as:

(i) Man-made fiber textiles, if the product is in chief weight of man-made fibers, unless:

(a) the product is knitted or crocheted apparel in which wool equals or exceeds 23 percent by weight of all fibers, in which case the product will be a wool textile; or

(b) the product is apparel, not knitted or crocheted, in which wool equals or exceeds 36 percent by weight of all fibers, in which case the product will be a wool textile;

(c) the product is a woven fabric in which wool equals or exceeds 36 percent by weight of all fibers, in which case the product will be a wool textile.

(ii) Cotton textiles, if not covered by subparagraph (B)(i) and if the product is in chief weight of cotton, unless the product is a woven fabric in which wool equals or exceeds 36 percent by weight of all fibers, in which case the product will be a wool textile.

(iii) wool textiles, if neither of the foregoing applies, and the product is in chief weight of wool.

(iv) Silk blend or non-cotton vegetable fiber textiles, if none of the foregoing applies and the product is in chief weight of silk or non-cotton vegetable fiber, unless:

(a) cotton with wool and/or man-made fibers in the aggregate equal or exceed 50 percent by weight of the component fibers thereof and the cotton component equals or exceeds the weight of each of the total wool and/or man-made fiber components, in which case the product will be a cotton textile.

(b) if not covered by (B)(iv)(a) and wool exceeds 17 percent by weight of all component fibers, in which case the product will be considered a wool textile.

(c) if not covered by (B)(iv)(a) or (b) and man-made fibers in combination with cotton and/or wool in the aggregate equal or exceed 50 percent by weight of the component fibers thereof and the man-made fiber component exceeds the weight of the total wool and/or total cotton component, in which case the product will be considered a man-made fiber textile.

(C) Notwithstanding the above, garments which contain 70 percent or more by weight silk (unless they also contain over 17 percent by weight wool), and products other than garments which contain 85 percent or more by weight silk, are not subject to this Agreement. Silk blend and non-cotton vegetable fiber sweaters, as determined above, shall be divided into "silk blend" sweaters and "non-cotton vegetable fiber" sweaters. For the purposes of this provision sweaters shall be classified as "silk blend" if the silk component exceeds by weight the non-cotton vegetable fiber component (if any). Sweaters not classified as "silk blend" sweaters in accordance with the foregoing shall be classified as "non-cotton vegetable fiber" sweaters. Garments containing 70 percent or more by weight silk and over 17 percent by weight wool shall be classified as wool textiles, under subparagraph(B)(iv)(b).

(D) Coverage under this paragraph is intended to be identical with the terms of the Arrangement Regarding International Trade in Textiles and in conformance with the July 31, 1986 Protocol of Extension. In the event of a question regarding whether a product is covered by this Agreement by virtue of being chief weight of cotton, wool, man-made fiber, silk blend, or non-cotton vegetable fiber, the chief value of the fibers may be considered.

Specific Limits

4. Commencing with the first Agreement Period, and during each subsequent term of this Agreement, the Government of the Lao People's Democratic Republic shall limit annual exports to the United States of cotton, wool, man-made fiber, silk blend and non-cotton vegetable fiber textiles and textile products of Lao People's Democratic Republic origin to the Specific Limits set out in Annex B, as such Specific Limits may be adjusted in accordance with paragraph 5.

Flexibility Adjustments

Swing

5. (A)(i) The Specific Limits set out in Annex B do not include any adjustments permitted under paragraph 5.

(ii) During any Agreement Period, the Specific Limits set out in Annex B may be increased by not more than 6 percent swing provided that a corresponding reduction in square meters equivalent is made in one or more other Specific Limit during the same Agreement Period.

(iii) No Specific Limit may be decreased pursuant to paragraph 5 (A) (ii) to a level which is below the level of exports charged against that category's limit for that agreement year.

(iv) The Government of the Lao People's Democratic Republic shall indicate to the Government of the United States the Specific Limits or sub-limits it would like increased and those which it would like decreased by commensurate quantities in square meters equivalent.

Carryover and Carryforward

(B) (i) The extent to which any Specific Limit set out in Annex B may be exceeded in any Agreement Period by Carryforward (borrowing a portion of the corresponding Specific Limit from the succeeding Agreement Period) and /or Carryover (the use of any unused meterage (shortfall) of the corresponding Specific Limit for the previous Agreement Period) is 11 percent, of which Carryforward shall not constitute more than 6 percent.

(ii) No Carryover shall be available for application in the first Agreement Period. No Carryforward shall be available for application in the final Agreement Period.

(C) For the purposes of the Agreement , a shortfall occurs when exports of textiles or textile products of Lao People's Democratic Republic to the United States during an Agreement Period are below any Specific Limit as set out in Annex B , (or, in the case of any limit decreased pursuant to paragraph 5, when such exports are below the limit as decreased).

(D) The Government of the Lao People's Democratic Republic will notify the Government of the United States when it wishes to use unused meterage (shortfall) available in categories for carryover, or for use by other categories for swing, subject to the provisions set out above. However, the Government of the United States may supply adjustments under this Section to any Specific Limit whenever that adjustment appears appropriate to facilitate the flow of trade and the sound administration of the Agreement. To the extent that such adjustments are actually utilized, they will be implemented by means of Carryover and Carryforward, in that order. Any unused Carryforward will be re-credited to the following Period's limit. This procedure will not prejudice the outcome of any consultations that may be held between our Governments concerning the amounts of available Carryover and Carryforward.

Overshipment Charges

6. (A) Products of Lao People's Democratic Republic shipped in excess of authorized limits in any Agreement Period may be denied entry into the United States. Any such shipment denied entry may be permitted into the United States and charged to the applicable limit in the succeeding Agreement Period.

(B) Products of Lao People's Democratic Republic shipped in excess of applicable limits in any Agreement Period will, if allowed entry into the United States during that Agreement Period, be charged to the applicable limit in the succeeding Agreement Period.

(C) Any action taken pursuant to sub-paragraph 6(A) and (B) above, will not prejudice the rights of the other side regarding consultations.

Spacing Provision

7. The Government of the Lao People's Democratic Republic shall use its best efforts to space exports of its products to the United States within each category, sub-category, or part-category, evenly throughout each Agreement Period, taking into consideration normal seasonal factors.

U.S. Assistance in Implementation of the Limitation Provision

8. The Government of the Lao People's Democratic Republic shall administer its export control system under the Agreement. The Government of the United States may assist the Government of the Lao People's Democratic Republic in implementing the limitation provisions of this Agreement by controlling, by the date of export, imports of textiles and textile products covered by this Agreement.

Correct Category/Quantity Visa System

9. (A) The provisions of the Visa Arrangement will govern the licensing of exports from the Lao People's Democratic Republic . Visas issued in a particular Agreement Year shall be valid only for textile and apparel products exported during that Agreement Year.

(B) The Parties recognize that under the Agreement the purchase of textiles and textile products to be delivered subject to the restrictions under the Agreement implies that the delivery of goods will be accompanied by a valid visa.

Commercial Samples and Personal Shipments

10. Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S. \$ 250 or less do not require a visa for entry and shall not be subject to the limits established under this Agreement.

Exchange of Information

11. Subject to domestic laws , at the request of the other Government, each Government agrees to supply any information within its possession reasonably believed to be necessary for the enforcement of this Agreement.

Exchange of Data

12. (A) The Government of the United States shall promptly supply the Government of the Lao People's Democratic Republic with data on monthly imports of cotton, wool, man-made fiber, silk-blend and non-cotton vegetable

fiber textiles and textile products of the Lao People's Democratic Republic into the United States.

(B) The Government of the Lao People's Democratic Republic shall promptly supply the Government of the United States with data on monthly exports of cotton, wool, man-made fiber, silk blend, and non-cotton vegetable fiber textiles and textile products of the Lao People's Democratic Republic to the United States.

Cooperation in the Prevention of Circumvention.

13. (A) The Government of the United States and the Government of the Lao People's Democratic Republic agree to take measures necessary to address, to investigate and, where appropriate, to take legal and/ or administrative action to prevent circumvention of this Agreement including by transshipment, rerouting, false declaration concerning country of origin and falsification of official documents.

(B) (i) Both Parties agree to cooperate fully, consistent with their domestic laws and procedures, in instances of circumvention or alleged circumvention and to establish the relevant facts in the places of import, export and, where applicable, transshipment. Such cooperation, to the extent consistent with domestic laws and procedures, will include investigation of circumvention practices; exchange of documents, correspondence, reports and other relevant information to the extent available; and facilitation of plant visits and contacts by representatives of either Party, upon request and on a case by case basis.

(ii) When either Party wishes to visit certain plants, the Party seeking the plant visit or visits shall give written notice, including the reasons for such visits to the authorities of the other Party 14 days in advance stating therein the number of plants they intend to visit and the proposed dates of

the visits. The plants to be visited will not be notified in advance of the visit. When the visit occurs, permission from a responsible person at the plant shall be obtained at the time of each visit. If the permission is denied, then the visit will not go forward. Such visits will be conducted by authorized personnel of both Governments in accordance with domestic laws and procedures. Upon completion of such plant visits, the Party making the request for the visit shall brief the respective Government officials of the other Party on the results of such plant visits.

(C) If either Party believes that this Agreement is being circumvented, it may request consultations to address the matter or matters concerned with a view to seeking a mutually satisfactory solution. Each Party agrees to hold such consultations promptly, beginning within 30 days of receipt of a written request by a Party and concluding within 90 days, unless extended by mutual agreement, and to cooperate fully in terms of the elements set out in paragraph B above.

(D)(i) Should the Parties be unable to reach a satisfactory solution in the course of consultations called for under paragraph C, then the Governments of the Lao People's Democratic Republic and the United States agree that in cases where clear evidence regarding circumvention has been provided, the United States may deduct from the quantitative limits for that Agreement Period amounts not more than the amount of transshipped products of Laotian origin. In addition, the Governments of the Lao People's Democratic Republic and the United States agree that deductions from the quantitative limits established under this Agreement may be made in those instances in which:

(a) Clear evidence regarding circumvention has been provided by the Government of the United States to the Lao People's Democratic Republic; or

(b) The Government of the United States has provided factual information to the Lao People's Democratic Republic demonstrating a substantial likelihood that circumvention has occurred and has requested from Laos cooperation or information relevant to the possible circumvention that is of the type that is available to or could reasonably be obtained by The Lao People's Democratic Republic, and the Lao People's Democratic Republic, without adequate reason, has not provided such information or cooperation. When Laos becomes a member of the WTO, to whom the US applies the Agreement, any actions taken under this paragraph shall be notified to the TMB.

(ii) If, after the charges have been made, evidence is developed that clearly establishes that the charges were in error because the goods in question were in fact not of Laotian origin, and there is clear evidence demonstrating the true country of origin, then the United States shall restore Laos' quantitative restraints equivalent to the amount deducted under this provision immediately after the United States holds consultations with the true country of origin and charges the goods to that country.

If in a reasonable period of time after the United States receives the evidence above, no action has been taken or consultations sought regarding such charges, the Lao People's Democratic Republic may request consultation with the United States with a view to seeking a satisfactory solution. Consistent with domestic laws and procedures, the United States agrees to hold such consultations promptly, beginning within 30 days.

(E) Both Parties recognize that the preferred resolution of cases of circumvention is for both Parties to take strong action against the particular companies, individuals or practices involved in the circumvention. Should the United States choose to exercise the provisions under paragraph D to deduct an amount or amounts from the quantitative limits of Laos where repeated instances of circumvention have been demonstrated within the

current or immediately preceding agreement year and no measures or inadequate measures are being applied by Laos to address the problem of repeated circumvention, then the United States may deduct from the quantitative limits amounts up to three times the amounts transshipped, provided that such deductions are distributed equally in each of the three following years. When Laos becomes a member of the WTO, to whom the US applies the Agreement, any actions taken under this paragraph shall be notified to the TMB.

(F) Where there is clear evidence showing that goods originating in another country have been transshipped through Laos to the United States as though they were products of Laos, the Governments of the Lao People's Democratic Republic and the United States agree to take appropriate action. Any such actions, together with their timing and scope, may be taken only after consultations held with a view to arriving at a mutually satisfactory solution. When Laos becomes a member of the WTO, to whom the US applies the Agreement, any such actions taken under this paragraph shall be notified to the TMB. Such consultations should be held promptly, beginning within 30 days of a receipt of a written request by a Party, and concluding within 90 days, unless extended by mutual agreement. Should the Parties be unable to reach a mutual satisfactory solution, then the Governments of the Lao People's Democratic Republic and the United States agree that in case where clear evidence regarding circumvention has been provided, the United States may introduce a restraint or, where a restraint already exists, may deduct from the quantitative limits established under this Agreement an amount not more than the amount of products transshipped through Laos. As soon as Laos has sufficiently established that the goods in question have not been transshipped through Laos, then:

(i) The United States shall immediately remove any restraint imposed pursuant to this provision, or

(ii) The United States shall immediately restore Laos' quantitative restraints in amounts equivalent to the amounts deducted pursuant to this provision after the United States has held the consultations with the true country of origin and charged the goods to that country.

If in a reasonable period of time after the United States receives the evidence above, no action has been taken or consultations sought regarding such charges, the Lao People's Democratic Republic may request consultations with the Government of the United States with a view to seeking a satisfactory solution. Consistent with domestic laws and procedures, the Government of the United States agrees to hold such consultations promptly, beginning within 30 days.

(G) Parties agree that false declaration concerning fiber content, quantities, description or classifications of merchandise also frustrates the objective of this Agreement. Where there is clear evidence that any such false declaration has been made for the purposes of circumvention, both Parties agree to take appropriate measures, consistent with their domestic laws and procedures, against exporters or importers involved. Should either Party believe that this Agreement is being circumvented by such false declaration and that no, or inadequate, administrative measures are being applied to address and/or to take action against such circumvention, that Party should consult promptly with the Party involved with a view to seeking a mutually satisfactory solution. Such consultations should be held promptly, beginning within 30 days of receipt of a written request, and concluding within 90 days, unless extended by mutual agreement. Should the Parties be unable to reach a mutually satisfactory solution, the Governments of the Lao People's Democratic Republic and the United States agree that in cases where clear evidence regarding such false declarations has been provided, the United States may deduct from the quantitative limits established for the current agreement year an amount not more than the amount of products subject to the false declaration or classification. When Laos becomes a

member of the WTO, to whom the US applies the Agreement, any actions taken under this paragraph shall be notified to the TMB. This provision is not intended to prevent Parties from making technical adjustments when inadvertent errors in declaration have been made.

(H) Parties note that some cases of circumvention may involve shipments transiting Laos with no changes or alterations made to the goods contained in such shipments in Laos. They note that it may not be generally practicable for the Lao People's Democratic Republic to exercise control over such shipments.

(I) No deductions to Laos' quantitative limits will apply to each particular instance of circumvention if the Lao People's Democratic Republic has provided the Government of the United States with clear evidence or intelligence of circumvention sufficient to allow the United States to deny entry to the particular circumventing goods prior to their entry into the customs territory of the United States. In such instance, the Parties agree that the preferred course would be for the Lao People's Democratic Republic to inform the Government of the United States that any visa issued on such shipment is invalid.

Mutually Satisfactory Administrative Arrangements

14. Mutually satisfactory administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of this Agreement, including differences in points of procedure or operation.

Consultation on Implementation Questions

15. The Government of the United States and the Government of the Lao People's Democratic Republic agree to consult upon the request of the other on any question arising in the implementation of this Agreement.

Right to Propose Revisions to the Agreement

16. The Government of the United States and the Government of the Lao People's Democratic Republic may at any time propose revisions to the terms of this Agreement. Each agrees to consult promptly with the other about such proposals with a view to making such revisions to this Agreement, or taking such other appropriate action as may be mutually agreed upon.

Right to Terminate the Agreement

17. Either Government may terminate this Agreement, effective at the end of any Agreement Period, by written notice to the other Government, to be given at least 90 days prior to the end of such Agreement Period.

Continuation of Provisions Upon WTO Membership

18. In the event that Laos becomes a member of the World Trade Organization (WTO) , and the United States applies the Agreement establishing the WTO (WTO Agreement) to Laos, the provision set out in paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 will be directly relevant to the ability of the United States and Laos to implement the WTO Agreement and the Uruguay Round Agreement on Textiles and Clothing (ATC). Therefore, upon membership of Laos in the WTO and application of the WTO Agreement by the United States to Laos, those provisions will remain in force and will be notified to the Textile Monitoring Body.